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09/801,309	03/07/2001	Raymond Severt Barsness	ROC920010075US1	2651

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IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester, MN 55901

EXAMINER

DUONG, THOMAS

ART UNIT	PAPER NUMBER
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2145

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/801,309

Applicant(s)

BARSNESS ET AL.

Examiner

Thomas Duong

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-11, 13-17, and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 13-17, and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the applicants Amendment filed on November 20, 2007. Applicant amended *claims 1, 3, 5, 7-11, 13-16, 19, and 23*, canceled *claims 6, 12, and 18*, and added *claims 24-26*. *Claims 1-5, 7-11, 13-17, and 19-26* are presented for further consideration and examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. *Claims 19-22* are rejected under *35 USC § 101* because the claims are not limited to tangible embodiments since *claims 19-22* are intended to cover signals, per se. As claimed, a "*signal bearing media bearing the program*" is not a physical article or object required to establish a statutory category of invention as a machine, manufacture, process or composition of matter. As such, the claims are not limited to statutory subject matter and are, therefore, non-statutory. Hence, in order to overcome this *35 USC § 101* rejection, the above claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media.

Claim Rejections - 35 USC § 102

Art Unit: 2145

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7-11, 13-17, and 19-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Skinner et al. (US006721740B1).

6. With regard to claims 1 and 10, Skinner discloses,

- *a subject*; (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31; col.14, lines 8-47; module 307, fig.3)

Skinner discloses, *"a method and apparatus of performing active update notification is described. Components of an application are able to specify interest in a data object or set of data objects by registering an interest with an update management component of the application. The interest object specifies the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects"* (Skinner, col.2, lines 54-61). In addition, Skinner discloses, *"within the client and application tiers, data is maintained in the form of data objects. Application server 307 maintains a set of objects containing data for the clients it serves"* (Skinner, col.14, lines 21-23). Hence, Skinner teaches of specifying and registering an interest object (i.e., Applicants' subject) with an update

management component of the application, so that *“when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification form the update management component”* (Skinner, col.2, lines 61-65).

- *an observer adapted to generate configuration information, the configuration information comprising an attribute of the observer; and* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *“an embodiment of the invention provides a mechanism for components of an application to specify an interest in one or more data objects”* (Skinner, col.8, lines 13-15). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) specifying the particular data objects that they are interested in. Skinner discloses, *“components of an application are able to specify an interest object with an update management component of the application. The interest object specifies the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects”* (Skinner, col.2, lines 55-61). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) registering (i.e., Applicants' generating configuration information) an interest object (i.e., Applicants' aspect object) with an update management component of the application (i.e., Applicants' subject) by *“[specifying] the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects”* (Skinner, col.2, lines 58-

61), so that *"when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification form the update management component"* (Skinner, col.2, lines 61-65).

- *an aspect object created by the observer and adapted for attachment to the subject, the aspect object further adapted to receive the configuration information from the observer and to selectively communicate update information to the observer based on the configuration information.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *"components of an application are able to specify interest in a data object or set of data objects by registering an interest object with an update management component"* (Skinner, col.2, lines 55-58). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) registering (i.e., Applicants' creating and attaching) an interest object (i.e., Applicants' aspect object) with an update management component of the application (i.e., Applicants' subject). In addition, Skinner discloses, *"mechanisms are also provided for refining the set of data objects specified in a given interest object or for providing a new interest that is the union of two or more existing interests. Interest refinement may be performed by specifying further interest criteria, for example, by registering a refinement object under an existing interest object, or by registering another interest object as a sub-interest object of an existing interest object"* (Skinner, col.9, lines 1-8). Hence, Skinner teaches of the

components of an application creating interest objects. In addition, Skinner discloses, *"notification of the change is sent to those application components whose interest criteria matches the changed data object"* (Skinner, col.8, lines 29-31). Hence, Skinner teaches of notifying of the change (i.e., Applicants' selectively communicating) in the interested object to the application components (i.e., Applicants' observer) whose interest criteria matches the changed data object (i.e., Applicants' based on the configuration information).

7. With regard to claims 2-3, Skinner discloses,

- *wherein the configuration information includes a desired type indication* (Skinner, col.1, line 6 – col.21, line 33; col.6, lines 36-42)
- *wherein aspect object selectively discards the update information in response to the desired type indication.* (Skinner, col.1, line 6 – col.21, line 33; col.10, lines 25-39)

8. With regard to claims 4-5, Skinner discloses,

- *wherein the attribute of the observer includes a communication speed indication.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
- *further comprising an accumulator that accumulates the update information in response to the communication speed indication.* (Skinner, col.1, line 6 – col.21, line 33; col.9, lines 1-13)

Art Unit: 2145

9. With regard to claims 7-8, Skinner discloses,

- *wherein the subject generates the state change indication and communicates the state change indication to the aspect object.* (Skinner, col.1, line 6 – col.21, line 33; col.8, lines 23-31)
- *further comprising a preprocessor that selectively modifies the update information in response to the configuration information.* (Skinner, col.1, line 6 – col.21, line 33; col.8, lines 23-31)

10. With regard to claim 9, Skinner discloses,

- *further comprising:*
 - *a first processor;* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
 - *a first memory coupled to the first processor, wherein the subject and the aspect object reside within the first memory;* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
 - *a second processor; and* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

- *a second memory coupled to the second processor, wherein the observer resides within the second memory.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

11. With regard to claim 11, Skinner discloses,

- *wherein the subject code segment comprises a network management software program, and wherein the observer code segment comprises a graphical user interface.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

12. With regard to claims 13, 19, and 23, Skinner discloses,

- *in an observer, generating instructions to create an aspect object.* (Skinner, col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, “*components of an application are able to specify interest in a data object or set of data objects by registering an interest object with an update management component*” (Skinner, col.2, lines 55-58). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) registering (i.e., Applicants' creating and attaching) an interest object (i.e., Applicants' aspect object) with an update management component of the application (i.e.,

Applicants' subject). In addition, Skinner discloses, *"mechanisms are also provided for refining the set of data objects specified in a given interest object or for providing a new interest that is the union of two or more existing interests. Interest refinement may be performed by specifying further interest criteria, for example, by registering a refinement object under an existing interest object, or by registering another interest object as a sub-interest object of an existing interest object"* (Skinner, col.9, lines 1-8). Hence, Skinner teaches of the components of an application creating interest objects. In addition, Skinner discloses, *"notification of the change is sent to those application components whose interest criteria matches the changed data object"* (Skinner, col.8, lines 29-31). Hence, Skinner teaches of notifying of the change (i.e., Applicants' selectively communicating) in the interested object to the application components (i.e., Applicants' observer) whose interest criteria matches the changed data object (i.e., Applicants' based on the configuration information).

- *communicating configuration information from the observer to the aspect object, the configuration information comprising an attribute of the observer;* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *"an embodiment of the invention provides a mechanism for components of an application to specify an interest in one or more data objects"* (Skinner, col.8, lines 13-15). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) specifying the particular data objects that they are interested in. Skinner discloses, *"components of an application are able*

to specify an interest object with an update management component of the application. The interest object specifies the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects" (Skinner, col.2, lines 55-61). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) registering (i.e., Applicants' generating configuration information) an interest object (i.e., Applicants' aspect object) with an update management component of the application (i.e., Applicants' subject) by "[specifying] the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects" (Skinner, col.2, lines 58-61), so that *"when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification form the update management component"* (Skinner, col.2, lines 61-65).

- *attaching the aspect object to a subject* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *"components of an application are able to specify interest in a data object or set of data objects by registering an interest object with an update management component"* (Skinner, col.2, lines 55-58). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) registering (i.e., Applicants' creating and attaching) an interest object (i.e., Applicants' aspect

Art Unit: 2145

object) with an update management component of the application (i.e.,

Applicants' subject).

- *notifying the aspect object of an update*; (Skinner, col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *"a method and apparatus of performing active update notification is described. Components of an application [i.e., observers] are able to specify interest in a data object or set of data objects by registering an interest with an update management component of the application. The interest object specifies the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects"* (Skinner, col.2, lines 54-61). In addition, Skinner discloses, *"within the client and application tiers, data is maintained in the form of data objects.*

Application server 307 maintains a set of objects containing data for the clients it serves" (Skinner, col.14, lines 21-23). Hence, Skinner teaches of specifying and registering an interest object (i.e., subject) with an update management component (i.e., transmission manager) of the application, so that *"when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification from the update management component"* (Skinner, col.2, lines 61-65). Skinner teaches of a step where, upon receiving an update notification, the interest registry is searched for interested clients and then update notifications are sent to those clients that are interested in the change.

- *interrogating the update to generate to generate update information; and selectively communicating the update to the observer based on a comparison between the update information and the configuration information.* (Skinner, col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Skinner discloses, *“a method and apparatus of performing active update notification is described. Components of an application [i.e., observers] are able to specify interest in a data object or set of data objects by registering an interest with an update management component of the application. The interest object specifies the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects”* (Skinner, col.2, lines 54-61). In addition, Skinner discloses, *“within the client and application tiers, data is maintained in the form of data objects.*

Application server 307 maintains a set of objects containing data for the clients it serves” (Skinner, col.14, lines 21-23). Hence, Skinner teaches of specifying and registering an interest object (i.e., subject) with an update management component (i.e., transmission manager) of the application, so that *“when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification form the update management component”* (Skinner, col.2, lines 61-65). Skinner teaches of a step where, upon receiving an update notification, the interest registry is searched for interested clients and then update notifications are sent to those clients that are interested in the change.

13. With regard to claims 14-17 and 20-22, Skinner discloses,

- *further comprising selectively modifying the update information based on a comparison between the update and the configuration information.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
- *further comprising accumulating the update information based on the configuration information.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
- *further comprising sending updated configuration information from the observer to the aspect object, wherein the updated configuration information comprises an updated attribute of the observer.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)
- *wherein the updated attribute of the observer includes a system load indication.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

14. With regard to claims 24-26, Skinner discloses,

- *wherein subject comprises an object and wherein the observer comprises an object.* (Skinner, col.1, line 6 – col.21, line 33; col.2, line 54 – col.3, line 23; col.8, lines 23-31, lines 59-67; col.9, lines 30-67; col.14, lines 8 – col.15, line 27; col.15, lines 40-48; col.16, lines 5-20; module 300A, fig.3)

Response to Arguments

15. Applicant's arguments with respect to *claims 1-5, 7-11, 13-17, and 19-26* have been considered but they are not persuasive.

16. With regard to *claims 1-5, 7-11, 13-17, and 19-26*, the Applicants point out that:

- *Turning now to the proposed combination, the primary reference is an example of the traditional subject-observer system discussed in more detail in Applicant's Background Section at pgs. 3-4. As such, it fails to teach any method for observer to implement and register criteria based on the attributes of the observer, See Office Action mailed July 18, 2006 at pg. 5, much less the claimed aspect objects.*

However, the Examiner finds that the Applicants' arguments are not persuasive because Skinner discloses, "*an embodiment of the invention provides a mechanism for components of an application to specify an interest in one or more data objects*" (Skinner, col.8, lines 13-15). Hence, Skinner teaches of components of an application (i.e., Applicants' observer) specifying the particular data objects that they are interested in. Skinner discloses, "*components of an application are able to specify an interest object with an update management component of the application. The interest object specifies the interested application component, as well as the*

identity of one or more data objects or an attribute value or range of values to associate with data objects” (Skinner, col.2, lines 55-61). Hence, Skinner teaches of components of an application (i.e., Applicants’ observer) registering (i.e., Applicants’ generating configuration information) an interest object (i.e., Applicants’ aspect object) with an update management component of the application (i.e., Applicants’ subject) by “[specifying] the interested application component, as well as the identity of one or more data objects or an attribute value or range of values to associate with data objects” (Skinner, col.2, lines 58-61), so that “when modifications are made to data objects corresponding to the registered interested objects, the interested application component or components receive an update notification form the update management component” (Skinner, col.2, lines 61-65).

17. With regard to claims 1-5, 7-11, 13-17, and 19-26, the Applicants point out that:

- *The secondary reference, Chow, also fails to teach and suggest the claimed observer-created aspect objects. Instead, Chow teaches a cache manager that allows a browser to specify preferences for one of a predetermined number of options, including an update frequency. However, in this system, the observer is still limited by the options provided by the cache manager. The observer registers its interest using a ‘check box flag’ embedded in an HTTP document, not by creating an aspect object and attaching that object to the observer.*

However, the Examiner finds that the Applicants’ arguments moot.

Art Unit: 2145

Conclusion

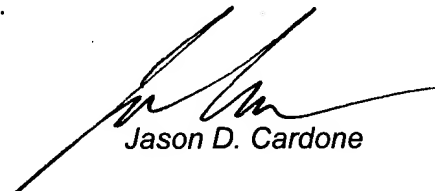
18. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

Thomas Duong (AU2145)

February 5, 2007



Jason D. Cardone

Supervisory PE (AU2145)